

TODD A. NOAH SBN 152328
BARBARA FRIEDMAN SBN 208735
DERGOSITS & NOAH LLP
One Embarcadero Center, Suite 350
San Francisco, CA 94111
Telephone: (415) 705-6377
Facsimile: (415) 750-6383
Email: tnoah@dergnoah.com
Email: bfriedman@dergnoah.com

HANSON BRIDGETT LLP
MICHELLE AKERMAN, SBN 265022
makerman@hansonbridgett.com
425 Market Street, 26th Floor
San Francisco, California 94105
Telephone: (415) 777-3200
Facsimile: (415) 541-9366

Attorneys for Plaintiffs
PRO-SHORE, LLC, BUILD GROUP, INC.
and PACIFIC STRUCTURES, INC.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

PRO-SHORE, LLC; BUILD GROUP, INC.;
and PACIFIC STRUCTURES, INC.,

Plaintiffs,

v.

DAYTON SUPERIOR CORPORATION,
Defendant.

Case No. 3:17-CV-05295-EMC

STIPULATED PROTECTIVE ORDER

1. PURPOSES AND LIMITATIONS

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the

Case No. 3:17-CV-05295-EMC

STIPULATED PROTECTIVE ORDER

1 following Stipulated Protective Order. The parties acknowledge that this Order does not
2 confer blanket protections on all disclosures or responses to discovery and that the
3 protection it affords from public disclosure and use extends only to the limited information
4 or items that are entitled to confidential treatment under the applicable legal principles.
5 The parties further acknowledge, as set forth in Section 12(iii), below, that this Stipulated
6 Protective Order does not entitle them to file confidential information under seal; Civil
7 Local Rule 79-5 sets forth the procedures that must be followed and the standards that
8 will be applied when a party seeks permission from the court to file material under seal.

9 **2. DEFINITIONS**

10 (i) Challenging Party: a Party or Non-Party that challenges the designation of
11 information or items under this Order.

12 (ii) "CONFIDENTIAL" Information or Items: information (regardless of how it is
13 generated, stored or maintained) or tangible things that (i) the Designating Party would
14 not normally reveal to third parties except in confidence, or has undertaken with others to
15 maintain in confidence, or (ii) is protected by a right to privacy under federal or state law
16 or any other applicable privilege or right related to confidentiality or privacy.

17 (iii) Counsel (without qualifier): Outside Counsel of Record and House Counsel
18 (as well as their support staff).

19 (iv) Designating Party: a Party or Non-Party that designates information or
20 items that it produces in disclosures or in responses to discovery as "CONFIDENTIAL" or
21 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY".

22 (v) Disclosure or Discovery Material: all items or information, regardless of the
23 medium or manner in which it is generated, stored, or maintained (including, among other
24 things, testimony, transcripts, and tangible things), that are produced or generated in
25 disclosures or responses to discovery in this matter.

26 (vi) Expert: a person with specialized knowledge or experience in a matter
27 pertinent to the litigation who (1) has been retained by a Party or its counsel to serve as
28 an expert witness or as a consultant in this action, (2) is not a past or current employee of

1 a Party or of a Party's competitor, and (3) at the time of retention, is not anticipated to
2 become an employee of a Party or of a Party's competitor.

3 (vii) "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" Information or
4 Items: extremely sensitive "Confidential Information or Items," disclosure of which to
5 another Party or Non-Party would create a substantial risk of serious harm that could not
6 be avoided by less restrictive means.

7 (viii) House Counsel: attorneys who are employees of a party to this action.
8 House Counsel does not include Outside Counsel of Record or any other outside
9 counsel.

10 (ix) Non-Party: any natural person, partnership, corporation, association, or
11 other legal entity not named as a Party to this action.

12 (x) Outside Counsel of Record: attorneys who are not employees of a party to
13 this action but are retained to represent or advise a party to this action and have
14 appeared in this action on behalf of that party or are affiliated with a law firm which has
15 appeared on behalf of that party.

16 (xi) Party: any party to this action, including all of its officers, directors,
17 employees, consultants, retained experts, and Outside Counsel of Record (and their
18 support staffs).

19 (xii) Producing Party: a Party or Non-Party that produces Disclosure or
20 Discovery Material in this action.

21 (xiii) Professional Vendors: persons or entities that provide litigation support
22 services (e.g., photocopying, videotaping, translating, preparing exhibits or
23 demonstrations, and organizing, storing, or retrieving data in any form or medium) and
24 their employees and subcontractors.

25 (xiv) Protected Material: any Disclosure or Discovery Material that is designated
26 as "CONFIDENTIAL," or as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY."

27 (xv) Receiving Party: a Party that receives Disclosure or Discovery Material from
28 a Producing Party.

1 **3. SCOPE**

2 The protections conferred by this Stipulation and Order cover not only Protected
3 Material (as defined above), but also (1) any information copied or extracted from
4 Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected
5 Material; and (3) any testimony, conversations, or presentations by Parties or their
6 Counsel that might reveal Protected Material. However, the protections conferred by this
7 Stipulation and Order do not cover the following information: (a) any information that is in
8 the public domain at the time of disclosure to a Receiving Party or becomes part of the
9 public domain after its disclosure to a Receiving Party as a result of publication not
10 involving a violation of this Order, including becoming part of the public record through
11 trial or otherwise; and (b) any information known to the Receiving Party prior to the
12 disclosure or obtained by the Receiving Party after the disclosure from a source who
13 obtained the information lawfully and under no obligation of confidentiality to the
14 Designating Party. Any use of Protected Material at trial shall be governed by a separate
15 agreement or order.

16 **4. DURATION**

17 Even after final disposition of this litigation, the confidentiality obligations imposed
18 by this Order shall remain in effect until a Designating Party agrees otherwise in writing or
19 a court order otherwise directs. Final disposition shall be deemed to be the later of (1)
20 dismissal of all claims and defenses in this action, with or without prejudice; and (2) final
21 judgment herein after the completion and exhaustion of all appeals, rehearings, remands,
22 trials, or reviews of this action, including the time limits for filing any motions or
23 applications for extension of time pursuant to applicable law.

24 **5. DESIGNATING PROTECTED MATERIAL**

25 (i) Exercise of Restraint and Care in Designating Material for Protection. Each
26 Party or Non-Party that designates information or items for protection under this Order
27 must take care to limit any such designation to specific material that qualifies under the
28 appropriate standards. To the extent it is practical to do so, the Designating Party must

1 designate for protection only those parts of material, documents, items, or oral or written
2 communications that qualify – so that other portions of the material, documents, items, or
3 communications for which protection is not warranted are not swept unjustifiably within
4 the ambit of this Order.

5 Mass, indiscriminate, or routinized designations are prohibited. Designations that
6 are shown to be clearly unjustified or that have been made for an improper purpose (e.g.,
7 to unnecessarily encumber or retard the case development process or to impose
8 unnecessary expenses and burdens on other parties) expose the Designating Party to
9 sanctions.

10 If it comes to a Designating Party's attention that information or items that it
11 designated for protection do not qualify for protection at all or do not qualify for the level
12 of protection initially asserted, that Designating Party must promptly notify all other
13 parties that it is withdrawing the mistaken designation.

14 (ii) Manner and Timing of Designations. Except as otherwise provided in this
15 Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or
16 ordered, Disclosure or Discovery Material that qualifies for protection under this Order
17 must be clearly so designated before the material is disclosed or produced.

18 Designation in conformity with this Order requires:

19 (a) for information in documentary form (e.g., paper or electronic documents, but
20 excluding transcripts of depositions or other pretrial or trial proceedings), that the
21 Producing Party affix the legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL –
22 ATTORNEYS' EYES ONLY" to each page that contains protected material. If only a
23 portion or portions of the material on a page qualifies for protection, the Producing Party
24 also must clearly identify the protected portion(s) (e.g., by making appropriate markings
25 in the margins) and must specify, for each portion, the level of protection being asserted.

26 A Party or Non-Party that makes original documents or materials available for
27 inspection need not designate them for protection until after the inspecting Party has
28 indicated which material it would like copied and produced. During the inspection and

1 before the designation, all of the material made available for inspection shall be deemed
2 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” After the inspecting Party has
3 identified the documents it wants copied and produced, the Producing Party must
4 determine which documents, or portions thereof, qualify for protection under this Order.
5 Then, before producing the specified documents, the Producing Party must affix the
6 appropriate legend (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
7 EYES ONLY”) to each page that contains Protected Material. If only a portion or portions
8 of the material on a page qualifies for protection, the Producing Party also must clearly
9 identify the protected portion(s) (e.g., by making appropriate markings in the margins)
10 and must specify, for each portion, the level of protection being asserted.

11 (b) for testimony given in deposition or in other pretrial or trial proceedings, that the
12 Designating Party identifies on the record, before the close of the deposition, hearing, or
13 other proceeding, all protected testimony and specify the level of protection being
14 asserted. When it is impractical to identify separately each portion of testimony that is
15 entitled to protection and it appears that substantial portions of the testimony may qualify
16 for protection, the Designating Party may invoke on the record (before the deposition,
17 hearing, or other proceeding is concluded) a right to have up to 21 days to identify the
18 specific portions of the testimony as to which protection is sought and to specify the level
19 of protection being asserted. Only those portions of the testimony that are appropriately
20 designated for protection within the 21 days shall be covered by the provisions of this
21 Stipulated Protective Order. Alternatively, a Designating Party may specify, at the
22 deposition or up to 21 days afterwards if that period is properly invoked, that the entire
23 transcript shall be treated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
24 ATTORNEYS’ EYES ONLY.”

25 Parties shall give the other parties notice if they reasonably expect a deposition,
26 hearing or other proceeding to include Protected Material so that the other parties can
27 ensure that only authorized individuals who have signed the “Acknowledgment and
28 Agreement to Be Bound” (Exhibit A) are present at those proceedings. The use of a

1 document as an exhibit at a deposition shall not in any way affect its designation as
2 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

3 Transcripts containing Protected Material shall have an obvious legend on the title
4 page that the transcript contains Protected Material, and the title page shall be followed
5 by a list of all pages (including line numbers as appropriate) that have been designated
6 as Protected Material and the level of protection being asserted by the Designating Party.
7 The Designating Party shall inform the court reporter of these requirements. Any
8 transcript that is prepared before the expiration of a 21-day period for designation shall
9 be treated during that period as if it had been designated “HIGHLY CONFIDENTIAL –
10 ATTORNEYS’ EYES ONLY” in its entirety unless otherwise agreed. After the expiration
11 of that period, the transcript shall be treated only as actually designated.

12 (c) for information produced in some form other than documentary and for any
13 other tangible items, that the Producing Party affix in a prominent place on the exterior of
14 the container or containers in which the information or item is stored the legend
15 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”. If only a
16 portion or portions of the information or item warrant protection, the Producing Party, to
17 the extent practicable, shall identify the protected portion(s) and specify the level of
18 protection being asserted.

19 (iii) Inadvertent Failures to Designate. If timely corrected, an inadvertent failure
20 to designate qualified information or items does not, standing alone, waive the
21 Designating Party’s right to secure protection under this Order for such material. Upon
22 timely correction of a designation, the Receiving Party must make reasonable efforts to
23 assure that the material is treated in accordance with the provisions of this Order.

24 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

25 (i) Timing of Challenges. Any Party or Non-Party may challenge a designation
26 of confidentiality at any time. Unless a prompt challenge to a Designating Party’s
27 confidentiality designation is necessary to avoid foreseeable, substantial unfairness,
28 unnecessary economic burdens, or a significant disruption or delay of the litigation, a

1 Party does not waive its right to challenge a confidentiality designation by electing not to
2 mount a challenge promptly after the original designation is disclosed.

3 (ii) Meet and Confer. The Challenging Party shall initiate the dispute resolution
4 process by providing written notice of each designation it is challenging and describing
5 the basis for each challenge. To avoid ambiguity as to whether a challenge has been
6 made, the written notice must recite that the challenge to confidentiality is being made in
7 accordance with this specific paragraph of the Protective Order. The parties shall attempt
8 to resolve each challenge in good faith and must begin the process by conferring directly
9 (in voice to voice dialogue; other forms of communication are not sufficient) within 14
10 days of the date of service of notice. In conferring, the Challenging Party must explain the
11 basis for its belief that the confidentiality designation was not proper and must give the
12 Designating Party an opportunity to review the designated material, to reconsider the
13 circumstances, and, if no change in designation is offered, to explain the basis for the
14 chosen designation. A Challenging Party may proceed to the next stage of the challenge
15 process only if it has engaged in this meet and confer process first or establishes that the
16 Designating Party is unwilling to participate in the meet and confer process in a timely
17 manner.

18 (iii) Judicial Intervention. If the Parties cannot resolve a challenge without court
19 intervention, the Parties shall follow the procedures set forth in the Civil Standing Order
20 on Discovery of U.S. District Judge Edward M. Chen.

21 The burden of persuasion in any such challenge proceeding shall be on the
22 Designating Party. Frivolous challenges and those made for an improper purpose (e.g.,
23 to harass or impose unnecessary expenses and burdens on other parties) may expose
24 the Challenging Party to sanctions. All parties shall continue to afford the material in
25 question the level of protection to which it is entitled under the Producing Party's
26 designation until the court rules on the challenge.

27 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

28 (i) Basic Principles. A Receiving Party may use Protected Material that is

1 disclosed or produced by another Party or by a Non-Party in connection with this case
2 only for prosecuting, defending, or attempting to settle this litigation. Such Protected
3 Material may be disclosed only to the categories of persons and under the conditions
4 described in this Order. When the litigation has been terminated, a Receiving Party must
5 comply with the provisions of section 13 below (FINAL DISPOSITION).

6 Protected Material must be stored and maintained by a Receiving Party at a
7 location and in a secure manner that ensures that access is limited to the persons
8 authorized under this Order.

9 (ii) Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise
10 ordered by the court or permitted in writing by the Designating Party, a Receiving Party
11 may disclose any information or item designated "CONFIDENTIAL" only to:

12 (a) the Receiving Party's Outside Counsel of Record in this action, as well as
13 employees of said Outside Counsel of Record to whom it is reasonably necessary to
14 disclose the information for this litigation;

15 (b) the officers, directors, and employees (including House Counsel) of the
16 Receiving Party to whom disclosure is reasonably necessary for this litigation and who
17 have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

18 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is
19 reasonably necessary for this litigation and who have signed the "Acknowledgment and
20 Agreement to Be Bound" (Exhibit A);

21 (d) the court and its personnel;

22 (e) court reporters and their staff, professional jury or trial consultants, mock jurors,
23 and Professional Vendors to whom disclosure is reasonably necessary for this litigation;

24 (f) during their depositions, witnesses in the action to whom disclosure is
25 reasonably necessary. Pages of transcribed deposition testimony or exhibits to
26 depositions that reveal Protected Material must be separately bound by the court reporter
27 and may not be disclosed to anyone except as permitted under this Stipulated Protective
28 Order.; and

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information.

(iii) Disclosure of "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" Information or Items. Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" only to:

(a) the Receiving Party's Outside Counsel of Record in this action, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this litigation;

(b) Experts of the Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

(c) the court and its personnel;

(d) court reporters and their staff, professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary for this litigation; and

(e) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information.

8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this action as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" that Party must:

(a) promptly notify in writing the Designating Party. Such notification shall include a copy of the subpoena or court order;

(b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is

1 subject to this Protective Order. Such notification shall include a copy of this Stipulated
2 Protective Order; and

3 (c) cooperate with respect to all reasonable procedures sought to be pursued by
4 the Designating Party whose Protected Material may be affected.

5 If the Designating Party timely seeks a protective order, the Party served with the
6 subpoena or court order shall not produce any information designated in this action as
7 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" before a
8 determination by the court from which the subpoena or order issued, unless the Party has
9 obtained the Designating Party's permission. The Designating Party shall bear the
10 burden and expense of seeking protection in that court of its confidential material – and
11 nothing in these provisions should be construed as authorizing or encouraging a
12 Receiving Party in this action to disobey a lawful directive from another court.

13 **9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN**
14 **THIS LITIGATION**

15 (a) The terms of this Order are applicable to information produced by a Non-
16 Party in this action and designated as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL –
17 ATTORNEYS' EYES ONLY." Such information produced by Non-Parties in connection
18 with this litigation is protected by the remedies and relief provided by this Order. Nothing
19 in these provisions should be construed as prohibiting a Non-Party from seeking
20 additional protections.

21 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

22 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
23 Protected Material to any person or in any circumstance not authorized under this
24 Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the
25 Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all
26 unauthorized copies of the Protected Material, (c) inform the person or persons to whom
27 unauthorized disclosures were made of all the terms of this Order, and (d) request such
28 person or persons to execute the "Acknowledgment and Agreement to Be Bound" that is

1 attached hereto as Exhibit A.

2 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
3 **PROTECTED MATERIAL**

4 When a Producing Party gives notice to Receiving Parties that certain
5 inadvertently produced material is subject to a claim of privilege or other protection, the
6 obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure
7 26(b)(5)(B). The Parties agree that if a Producing Party inadvertently produces or
8 provides discovery that it believes is subject to a claim of attorney-client privilege, work
9 product immunity, or any other privilege, the Producing Party may give written notice to
10 the Receiving Party that the document or thing is subject to a claim of privilege or work
11 product immunity and request that the document or thing be destroyed or returned to the
12 Producing Party. The Receiving Party shall destroy or return to the Producing Party such
13 document or thing within ten (10) days. Destruction or return of the document or thing
14 shall not constitute an admission or concession, or permit any inference, that such
15 document or thing is, in fact, properly subject to a claim of privilege or work product
16 immunity, nor shall it foreclose any Party from moving the Court for an Order that such
17 document or thing is not privileged or immune or should be producible for other reasons
18 than a waiver caused by the inadvertent production.

19 **12. MISCELLANEOUS**

20 (i) Right to Further Relief. Nothing in this Order abridges the right of any
21 person to seek its modification by the court in the future.

22 (ii) Right to Assert Other Objections. By stipulating to the entry of this
23 Protective Order no Party waives any right it otherwise would have to object to disclosing
24 or producing any information or item on any ground not addressed in this Stipulated
25 Protective Order. Similarly, no Party waives any right to object on any ground to use in
26 evidence of any of the material covered by this Protective Order.

27 (iii) Filing Protected Material. Without written permission from the Designating
28 Party or a court order secured after appropriate notice to all interested persons, a Party

1 may not file in the public record in this action any Protected Material. A Party that seeks
2 to file under seal any Protected Material must comply with Civil Local Rule 79-5.
3 Protected Material may only be filed under seal pursuant to a court order authorizing the
4 sealing of the specific Protected Material at issue. Pursuant to Civil Local Rule 79-5, a
5 sealing order will issue only upon a request establishing that the Protected Material at
6 issue is privileged, protectable as a trade secret, or otherwise entitled to protection under
7 the law. If a Receiving Party's request to file Protected Material under seal pursuant to
8 Civil Local Rule 79-5(e) is denied by the court, then the Receiving Party may file the
9 Protected Material in the public record pursuant to Civil Local Rule 79-5(e)(2) unless
10 otherwise instructed by the court.

11 **13. FINAL DISPOSITION**

12 Within 60 days after the final disposition of this action, as defined in Section 4,
13 each Receiving Party must return all Protected Material to the Producing Party or destroy
14 such material. As used in this subdivision, "all Protected Material" includes all copies,
15 abstracts, compilations, summaries, and any other format reproducing or capturing any of
16 the Protected Material. Whether the Protected Material is returned or destroyed, the
17 Receiving Party must submit a written certification to the Producing Party (and, if not the
18 same person or entity, to the Designating Party) by the 60-day deadline that (1) identifies
19 (by category, where appropriate) all the Protected Material that was returned or
20 destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts,
21 compilations, summaries or any other format reproducing or capturing any of the
22 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an
23 archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts,
24 legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney
25 work product, and consultant and expert work product, even if such materials contain
26 Protected Material. Any such archival copies that contain or constitute Protected Material
27 remain subject to this Protective Order as set forth in Section 4 (DURATION).

28

1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

2 [Signatures on next page]
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 DATED: 8/9/18

2 /s/ Michelle Akerman

3 TODD A. NOAH SBN 152328
4 BARBARA FRIEDMAN SBN 208735
5 DERGOSITS & NOAH LLP
6 One Embarcadero Center, Suite 350
7 San Francisco, CA 94111
8 Telephone: (415) 705-6377
9 Facsimile: (415) 750-6383
10 Email: tnoah@dergnoah.com
11 Email: bfriedman@dergnoah.com

12 *Attorneys for Plaintiff PRO-SHORE, LLC*

13 DATED: 8/9/18

14 /s/ Michelle Akerman

15 HANSON BRIDGETT LLP
16 MICHELLE AKERMAN, SBN 265022
17 makerman@hansonbridgett.com
18 425 Market Street, 26th Floor
19 San Francisco, California 94105
20 Telephone: (415) 777-3200
21 Facsimile: (415) 541-9366

22 *Attorneys for Plaintiffs PRO-SHORE, LLC, BUILD GROUP, INC., AND*
23 *PACIFIC STRUCTURES, INC.*

24 DATED: 8/9/18

25 /s/ Michelle Akerman

26 Lisa Greenwald-Swire (SBN 213269 / greenwald-swire@fr.com)
27 Katherine D. Prescott (SBN 215496 / prescott@fr.com)
28 Michelle M. Parsons (SBN 289270 / mparsons@fr.com)
FISH & RICHARDSON P.C.
500 Arguello Street, Suite 500
Redwood City, California 94063
Telephone: (650) 839-5070
Facsimile: (650) 839-5071

Sheryl Koval Garko (appearing *pro hac vice* / garko@fr.com)
FISH & RICHARDSON P.C.
One Marina Park Drive
Boston, Massachusetts 02210-1878
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

Vivian Cheng (appearing *pro hac vice* / cheng@fr.com)

1 FISH & RICHARDSON P.C.
2 601 Lexington Avenue
3 52nd Floor, New York, NY 10022
4 Telephone: (212) 765-5070
5 Facsimile: (212) 258-2291

6 *Attorneys for Defendant DAYTON SUPERIOR CORPORATION*

7
8 PURSUANT TO STIPULATION, IT IS SO ORDERED.

9 DATED: 8/13/2018

10 The Honorable Edward M.

11 United States District Judge



1 **EXHIBIT A**

2 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

3 I, _____ [print or type full name], of
4 _____ [print or type full address], declare under penalty of perjury that I
5 have read in its entirety and understand the Stipulated Protective Order that was issued
6 by the United States District Court for the Northern District of California on [date] in the
7 case of *Pro-Shore, LLC, Build Group, Inc., and Pacific Structures, Inc. v. Dayton Superior*
8 *Corp.*, No. 17-cv-05295 (EMC). I agree to comply with and to be bound by all the terms of
9 this Stipulated Protective Order and I understand and acknowledge that failure to so
10 comply could expose me to sanctions and punishment in the nature of contempt. I
11 solemnly promise that I will not disclose in any manner any information or item that is
12 subject to this Stipulated Protective Order to any person or entity except in strict
13 compliance with the provisions of this Order.

14 I further agree to submit to the jurisdiction of the United States District Court for
15 the Northern District of California for the purpose of enforcing the terms of this Stipulated
16 Protective Order, even if such enforcement proceedings occur after termination of this
17 action.

18 I hereby appoint _____ [print or type full name] of
19 _____ [print or type full address and telephone
20 number] as my California agent for service of process in connection with this action or
21 any proceedings related to enforcement of this Stipulated Protective Order.

22
23 Date: _____

24 City and State where sworn and signed: _____

25
26 Printed name: _____

27 [printed name]
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Signature: _____
[signature]